

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

FAOUZI JABER,

Plaintiff,

-against-

CHRISTINA HANLEY,

Defendant.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 5/8/2024

1:24-CV-0998 (CM)

ORDER OF SERVICE

COLLEEN McMAHON, United States District Judge:

Plaintiff Faouzi Jaber, who is currently incarcerated in the Federal Correctional Institution (Gilmer), in Glenville, West Virginia, brings this action *pro se*, asserting claims under *Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics*, 403 U.S. 388 (1971). He seeks injunctive relief (the return of his passport) and damages, and he sues Drug Enforcement Agency (DEA) Agent Christina Hanley, arising from the alleged seizure of his personal property. The Court construes Plaintiff's complaint as asserting claims against the Government for injunctive relief, under Rule 41(g) of the Federal Rules of Criminal Procedure, in connection with his closed criminal action, *United States v. Jaber*, 1:13-CR-0485 (CM), as well as claims against Hanley for damages, under *Bivens*.

By order dated March 15, 2024, the Court granted Plaintiff's request to proceed *in forma pauperis* ("IFP"), that is, without prepayment of fees.¹ The Court directs service on Hanley.

¹ Prisoners are not exempt from paying the full filing fee, even when they have been granted permission to proceed IFP. *See* 28 U.S.C. § 1915(b)(1).

Copies mailed / faxed / handed to counsel on 5/8/2024

DISCUSSION

Because Plaintiff has been granted permission to proceed IFP, he is entitled to rely on the assistance of the Court and the United States Marshals Service to effect service.² *Walker v. Schult*, 717 F.3d. 119, 123 n.6 (2d Cir. 2013); *see also* 28 U.S.C. § 1915(d) (“The officers of the court shall issue and serve all process . . . in [IFP] cases.”); Fed. R. Civ. P. 4(c)(3) (the court must order the Marshals Service to serve if the plaintiff is authorized to proceed IFP).

To allow Plaintiff to effect service on Hanley through the United States Marshals Service, the Clerk of Court is instructed to fill out a United States Marshals Service Process Receipt and Return form (“USM-285 form”) for Hanley. The Clerk of Court is further instructed to: (1) mark the box on the USM-285 form labeled “Check for service on U.S.A.”; and (2) issue a summons for Hanley, and deliver to the United States Marshals Service a copy of this order and all other paperwork necessary for the United States Marshals Service to effect service on Hanley and the United States of America.

It is Plaintiff’s responsibility to ensure that service is made within 90 days of the date the summons is issued and, if necessary, to request an extension of time for service. *See Meilleur v. Strong*, 682 F.3d 56, 63 (2d Cir. 2012). Plaintiff also must notify the Court in writing if his address changes, and the Court may dismiss this action if Plaintiff fails to do so.

²Although Rule 4(m) of the Federal Rules of Civil Procedure generally requires that a summons be served within 90 days of the date the complaint is filed, Plaintiff is proceeding IFP and could not have effected service on Hanley until the Court reviewed the complaint and ordered that a summons be issued for Hanley. The Court therefore extends the time to serve Hanley until 90 days after the date that a summons for Hanley is issued.

CONCLUSION

The Court directs the Clerk of Court to mail an information package to Plaintiff.

The Court also directs the Clerk of Court to: (1) issue a summons for Christina Hanley; (2) complete a USM-285 form with the service addresses of Hanley; (3) mark the box on the USM-285 form labeled "Check for service on U.S.A."; and (4) deliver all documents necessary to effect service of the summons and the complaint on Hanley and the United States of America to the United States Marshals Service.

SO ORDERED.

Dated:

May 2, 2024
New York, New York

A handwritten signature in blue ink, appearing to read "Colleen McMahon", is written over a light blue rectangular background.

COLLEEN McMAHON
United States District Judge

DEFENDANT AND SERVICE ADDRESSES

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